

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAHMEL CLARK,

Plaintiff,

-against-

LT. JORDAN, et al.,

Defendants.

1:22-CV-4937 (LTS)

ORDER

LAURA TAYLOR SWAIN, Chief United States District Judge:

By order dated June 13, 2022, the Court directed Plaintiff, within 30 days, to either pay the \$402 in fees to bring this *pro se* action, or complete, sign, and submit an *in forma pauperis* (“IFP”) application. On June 27, 2022, the Court received from Plaintiff an IFP application and a letter. (ECF 4 & 5.) In his letter, Plaintiff indicates that he omitted a page from his complaint and that he misspelled the name of the first defendant named in the caption of his complaint; he states that that defendant’s name is “Lt. Jordan,” not “Lt. Jordant.” (ECF 5.)

The Court directs the Clerk of Court to correct the spelling of the name of the first defendant named in the caption of this action so that it appears as “Lt. Jordan.” *See Fed. R. Civ. P. 21.* If Plaintiff wishes to submit a page missing from his complaint, the Court will construe it as a supplement to his complaint.

With respect to Plaintiff’s IFP application, it appears that Plaintiff did not report all of his sources of income for the past 12 months. In response to his IFP application’s question as to whether, other than income from his prison employment, Plaintiff has received more than \$200 from any other source in the past 12 months, Plaintiff responded that he has not. (ECF 4.) Court records show, however, that in a *pro se* action that he previously brought under the name “Jamel Clark,” in the United States District Court for the Northern District of New York, Plaintiff signed

a stipulation and order of discontinuance on October 1, 2021, which was entered by that court on December 1, 2021, in which he settled that action in exchange for \$1,450. *See Clark v. Gardner*, 9:17-CV-0366, 106 (N.D.N.Y.). According to a letter filed by the New York State Attorney General's Office in that action on January 27, 2022, the settlement amount was paid one day earlier, on January 26, 2022. *See Clark*, 9:17-CV-0366, 109 (N.D.N.Y.). In light of that letter, and Plaintiff's failure to respond to that court's instruction to confirm payment, that court denied Plaintiff's motion reopen that action. *See Clark*, 9:17-CV-0366, 111 (N.D.N.Y. Feb. 24, 2022).

Plaintiff has not reported, in his IFP application for the present action, payment of those settlement funds or what has happened to those funds since payment. Thus, the Court is unable to conclude that Plaintiff is unable to pay the fees to bring this action.

Accordingly, within 30 days of the date of this order, Plaintiff must either complete, sign, and submit the attached amended IFP application in which he provides this detail or pay the \$402 in fees to bring this action. If Plaintiff submits the amended IFP application, it should be labeled with docket number 1:22-CV-4937 (LTS), and address the deficiencies described above by providing all the necessary facts to establish that Plaintiff is unable to pay the fees to bring this action. If the Court grants the amended IFP application, Plaintiff will be permitted to proceed without prepayment of fees. *See* 28 U.S.C. § 1915(a)(1). The Court warns Plaintiff, however, that the Court may dismiss this action at any time if the Court determines that his "allegation of poverty is untrue." § 1915(e)(2)(A).

No summons shall issue at this time. If Plaintiff complies with this order, this action shall be processed in accordance with the procedures of the Clerk's Office. If Plaintiff fails to comply with this order within the time allowed, this action will be dismissed.

The Court certifies under 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith, and therefore IFP status is denied for the purpose of an appeal. *Cf. Coppededge v. United States*, 369 U.S. 438, 444-45 (1962) (holding that appellant demonstrates good faith when seeking review of a nonfrivolous issue).

SO ORDERED.

Dated: July 6, 2022
New York, New York

/s/ Laura Taylor Swain

LAURA TAYLOR SWAIN
Chief United States District Judge